

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
JAMES R. SMITH)
)
 v) No. 11-0213
)
COMMONWEALTH EDISON COMPANY)
)
Complaint as to billing/charges)
in Chicago, Illinois.)

Chicago, Illinois
May 17, 2011

Met pursuant to notice at 11:00 a.m.

BEFORE :

MR. JOHN RILEY, Administrative Law Judge.

APPEARANCES :

MR. JAMES R. SMITH
7242 South Morgan Street, Apt. 1
Chicago, Illinois 60620
appeared pro se;

MR. MARK L. GOLDSTEIN
3019 Province Circle
Mundelein, Illinois 60060
appeared for Respondent.

SULLIVAN REPORTING COMPANY, by
Teresann B. Giorgi, CSR

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I N D E X

<u>Witnesses:</u>	<u>Dir.</u>	<u>Crx.</u>	<u>Re-</u> <u>dir.</u>	<u>Re-</u> <u>crx.</u>	<u>By</u> <u>Examiner</u>
NONE					

E X H I B I T S

<u>APPLICANT'S</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
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1 JUDGE RILEY: Pursuant to the direction
2 of the Illinois Commerce Commission, I call
3 Docket 11-0213. This is a complaint by James R.
4 Smith versus Commonwealth Edison Company as to
5 billing and charges in Chicago, Illinois.

6 Mr. Smith, you're proceeding without
7 an attorney, is that correct?

8 MR. SMITH: Yes.

9 JUDGE RILEY: And, Mr. Goldstein, you're here on
10 behalf of ComEd?

11 MR. GOLDSTEIN: Correct.

12 JUDGE RILEY: Please enter your appearance for
13 the record.

14 MR. GOLDSTEIN: On behalf of Commonwealth Edison
15 Company, Mark L. Goldstein, 3019 Province Circle,
16 Mundelein, Illinois 60060. My telephone number is
17 847-949-1340.

18 With me today is Monica Merino of
19 ComEd.

20 JUDGE RILEY: Mr. Smith, is it my understanding
21 that this is an ongoing matter --

22 MR. SMITH: Yes.

1 JUDGE RILEY: -- it's continued from a prior
2 docket?

3 MR. SMITH: Since 2003. It's about the
4 property. This is the only document I could find.
5 I've moved so many times all the documents have been
6 misplaced. But I sold the property to my nephew and
7 he occupied that space and he the one hooked up all
8 them lights and ran that bill up.

9 JUDGE RILEY: Okay.

10 MR. SMITH: That's what the dispute is.

11 JUDGE RILEY: When did you sell it to him?

12 MR. SMITH: I sold it in 2004, but Mr. Burton
13 Witt was the one that drew the contract up, you
14 know, for the property. He the one came in there,
15 he had people come in there hook them floodlights up
16 and, you know, mess the property -- you know, I had
17 moved to 89 -- 829 East 89th Place.

18 JUDGE RILEY: Now, I guess my next question
19 would be, when you sold the property and vacated
20 it --

21 MR. SMITH: Uh-huh.

22 JUDGE RILEY: -- I assume that you lived there.

1 MR. SMITH: No -- I lived there with my mother
2 until she died.

3 JUDGE RILEY: I understand.

4 MR. SMITH: She died in 2004.

5 JUDGE RILEY: And you moved sometime --

6 MR. SMITH: I moved -- yeah. Moved to 826 East
7 89th.

8 JUDGE RILEY: I understand that.

9 But when you moved was that at the
10 time that you also sold the property?

11 MR. SMITH: What you mean?

12 JUDGE RILEY: Did you continue to own the
13 property after you moved?

14 MR. SMITH: No, we was in negotiations to sell
15 the property. But you see the other three names
16 on -- the other two names on there? My brother and
17 my sister was also on there. They relinquished
18 their rights to the estate.

19 JUDGE RILEY: All right. I understand that.

20 But whose name was on the account at
21 Commonwealth?

22 MR. SMITH: My name was on the account.

1 JUDGE RILEY: And did you have Commonwealth
2 Edison take your name off --

3 MR. SMITH: I did not --

4 JUDGE RILEY: -- when you moved?

5 MR. SMITH: I was supposed to. I did not do it
6 because I was concerned about my mother. That was
7 an error on my part.

8 JUDGE RILEY: So how much -- what I'm trying --
9 what was the date on the sale, can you give me --

10 MR. SMITH: The date of the sale -- there it is
11 right there, March 5th. But we made the
12 negotiations on the 4th.

13 MR. GOLDSTEIN: Judge, that's nothing.

14 JUDGE RILEY: All right. I understand that.

15 MR. GOLDSTEIN: You know, this is just a total
16 waste of time, Judge. He has entered into two
17 settlement agreements with the Company. He's
18 defaulted on both settlement agreements. The case
19 is -- the prior cases --

20 MR. SMITH: The reason why I did --

21 MR. GOLDSTEIN: Excuse me, sir.

22 MR. SMITH: The reason why I did that because --

1 JUDGE RILEY: We're off the record.

2 (Whereupon, a discussion

3 was had off the record.)

4 JUDGE RILEY: Mr. Smith, it's my understanding

5 that you're quite adamant that you do not owe any

6 sums of money to --

7 MR. SMITH: I don't owe that money, no \$5,000.

8 You know I can't -- that other money for my

9 property -- the other money for my property I owe

10 that, 9420 South Lafayette, 7242 South Morgan, I owe

11 that. I don't owe for 6914 South Carpenter. I'm

12 willing to pay those two properties.

13 JUDGE RILEY: You said you sold the house and --

14 MR. SMITH: I sold that house --

15 JUDGE RILEY: Please.

16 -- you said you sold the house in

17 March of 2005.

18 MR. SMITH: I sold that house.

19 JUDGE RILEY: I understand that. Did you --

20 MR. SMITH: My mother died October 29 --

21 JUDGE RILEY: -- is that when you moved out?

22 Did you move out at the time you sold the house?

1 MR. SMITH: I can't recall.

2 JUDGE RILEY: How long was your name still on
3 the account after you moved out?

4 MR. SMITH: I cannot recall that because I was
5 in bereavement with my mother.

6 JUDGE RILEY: I understand that.

7 MR. SMITH: My mother stay in a coma 9 months,
8 29 days. I wasn't thinking about any property.

9 JUDGE RILEY: I understand that.

10 Now, at any time can you recall that
11 you had Commonwealth Edison come out and remove your
12 name from that account?

13 MR. SMITH: They didn't do anything. I called
14 them, told them my mother had died.

15 JUDGE RILEY: Did you tell them --

16 MR. SMITH: That's what I told -- I called them
17 and told them my mother had -- was deceased.

18 JUDGE RILEY: Did you call them --

19 MR. SMITH: They still kept -- bringing me --
20 sending me a bill everywhere I went, everywhere I
21 moved. I had moved five times.

22 JUDGE RILEY: Mr. Smith, if your name was still

1 on the account, they were going to continue to send
2 you a bill.

3 MR. SMITH: I told them my mother was dead.
4 They -- and then my father -- my father -- it may
5 have been in my father name because my father name
6 is James Smith, too. My father name was James
7 Smith, that's what I told them before, too.

8 JUDGE RILEY: So are you saying now that you're
9 not certain when the --

10 MR. SMITH: They probably still have my father
11 name on there because my father name is James Smith,
12 also, and he was deceased since 1990. He died of
13 colon cancer in 1990.

14 JUDGE RILEY: Mr. Goldstein, what is ComEd's
15 position?

16 MR. GOLDSTEIN: Judge, there's been two prior
17 settlement agreements.

18 MR. SMITH: You can talk all that settlement
19 agreement all you want.

20 MR. GOLDSTEIN: One of them --

21 MR. SMITH: I did -- so I got time --

22 JUDGE RILEY: Off the record. Off the record.

1 MR. SMITH: -- the reason why I did --
2 (Whereupon, a discussion
3 was had off the record.)
4 MR. SMITH: This case been dragging since 2004.
5 You see what this is. You know I'm not liable for
6 that 5000 -- every time I move somewhere y'all
7 trying to hunt me down for that money, that's why
8 I'm not able to pay my bills, nothing. You need to
9 quit.
10 No, I'm not going to hire no attorney.
11 I'll go to somebody else. I'll go to another judge
12 because that's all you want. You ain't going to
13 keep jewing nobody. You ain't going to keep
14 squeezing me. That's all you want to do is squeeze
15 people out of something.
16 And once your mother and father is
17 dead, your debt is paid. My mother and father is
18 dead. You know I'm not responsible for that bill.
19 MR. GOLDSTEIN: Is it my turn --
20 MR. SMITH: I'm tired of this shit. My mother
21 and father is dead.
22 MR. GOLDSTEIN: Is it my turn?

1 JUDGE RILEY: What is Commonwealth --
2 MR. SMITH: Oh, Commonwealth Edison --
3 JUDGE RILEY: Mr. --
4 MR. SMITH: -- you want to just screw somebody,
5 like y'all been doing for years. I've been coming
6 to this doggone place I don't know how many times.
7 I'm tired of it.
8 JUDGE RILEY: Now, we've heard it, Mr. Smith. I
9 want to hear from Mr. Goldstein now.
10 MR. SMITH: Whatever. Talk.
11 JUDGE RILEY: Mr. Goldstein, what is ComEd's
12 position?
13 MR. GOLDSTEIN: Judge --
14 MR. SMITH: I'm through talking.
15 MR. GOLDSTEIN: -- about three years ago
16 Mr. Smith signed a settlement agreement --
17 MR. SMITH: Yeah.
18 MR. GOLDSTEIN: -- the settlement agreement
19 related specifically to 69 --
20 MR. SMITH: No, I signed it my property. I
21 ain't sign it for no 6914 -- I just did that. I did
22 it on my own, just to get y'all out of my face,

1 that's why I did it.

2 MR. GOLDSTEIN: Well, for whatever reason --

3 MR. SMITH: I don't care whatever reason, that's

4 why I did it --

5 MR. GOLDSTEIN: Well, for whatever reason --

6 MR. SMITH: -- so I can get away.

7 MR. GOLDSTEIN: -- he signed it, he defaulted on

8 it --

9 MR. SMITH: I do not owe for that property.

10 MR. GOLDSTEIN: -- and --

11 MR. SMITH: -- default or nothing --

12 MR. GOLDSTEIN: That's the agreement --

13 MR. SMITH: -- I'll go someplace else. I'll

14 file another appeal for somewhere else. I'm not

15 going to pay that. My mother and father -- once

16 your mother and father is dead the debt is paid,

17 that's it.

18 JUDGE RILEY: Mr. Goldstein, are you making a

19 motion to dismiss?

20 MR. GOLDSTEIN: Yes. I would like to make an

21 oral motion to dismiss this case. It was previously

22 handled in other dockets, specifically --

1 MR. SMITH: I don't care about the dockets. You
2 can take all the --
3 MR. GOLDSTEIN: -- specifically the 6914
4 South --
5 MR. SMITH: The 6914 --
6 JUDGE RILEY: Mr. Smith --
7 MR. SMITH: -- that's what the whole -- that's
8 what the whole problem is. 6914 -- I can pay all
9 the doggone bills.
10 JUDGE RILEY: All right.
11 MR. SMITH: I can pay them bills at my other
12 place. I'm not going to pay no \$5,000 bill for
13 nowhere I wasn't staying. You out of your mind?
14 This 2011. You see how long that case been
15 dragging.
16 MR. GOLDSTEIN: In any event, Judge --
17 MR. SMITH: In any event, that's right.
18 MR. GOLDSTEIN: -- uh --
19 MR. SMITH: Y'all see that paper right there.
20 MR. GOLDSTEIN: -- that was the --
21 MR. SMITH: I sold the property. Now, you can
22 call Burton C. Witt (indicating), that's right, call

1 this man right here (indicating). You can call him
2 and tell them what happened with the property. I
3 sold that property. You don't even want to take
4 a -- take a Xerox copy of that. You told me to
5 bring that. No, you don't want to see that. The
6 property wasn't mine. I did not stay in the house.
7 Call on him. I tried to get papers from him, he
8 wouldn't give them to me because Antony (sic)
9 Montgomery was the owner of the house then. I did
10 not own the property.

11 You're not going to screw me about --

12 JUDGE RILEY: Mr. --

13 MR. SMITH: -- about this electric --

14 JUDGE RILEY: -- Mr. Goldstein, you've made a
15 motion to dismiss?

16 MR. GOLDSTEIN: Yes, Judge.

17 Based upon the prior settlement of the
18 property at 6914 South Carpenter, a settlement
19 agreement that was entered into and this matter was
20 dismissed with prejudice by the Commission on
21 July 7th, 2008, it's more than 2 years since this
22 occurred.

1 There's various -- obviously, there's
2 several reasons why a motion to dismiss is
3 appropriate and I ask that you take the motion to
4 dismiss orally and enter an appropriate proposed
5 order and we can go from there.

6 JUDGE RILEY: Mr. Smith, what is your response?

7 MR. SMITH: I'm not going to pay no \$5,000.
8 Nothing. Not any of it.

9 JUDGE RILEY: What is your response --

10 MR. SMITH: He is wrong.

11 JUDGE RILEY: What is --

12 MR. SMITH: Everything what he's saying.

13 JUDGE RILEY: What is your response to the
14 motion to --

15 MR. SMITH: My response to the motion, I do not
16 agree with it. That's all I have to say.

17 MR. GOLDSTEIN: Judge, if you were to put this
18 in writing, you know, as a proposed order, Mr. --

19 MR. SMITH: I'm not going to --

20 MR. GOLDSTEIN: -- Smith would have an
21 opportunity to respond to it in writing and --

22 MR. SMITH: -- I'm not going to respond to

1 nothing in writing.

2 THE REPORTER: I can't --

3 JUDGE RILEY: All right. All right.

4 Mr. Goldstein, you were saying that --

5 MR. GOLDSTEIN: I was --

6 MR. SMITH: Not this -- not a damn thing is

7 right.

8 JUDGE RILEY: -- into a proposed order --

9 MR. GOLDSTEIN: Yeah.

10 JUDGE RILEY: -- that he will have -- the

11 Complainant will have an opportunity to respond.

12 MR. GOLDSTEIN: That's correct, Judge.

13 JUDGE RILEY: And that's is how --

14 MR. SMITH: I'm not going to respond to nothing.

15 I'm not writing you anymore. I'm not coming down

16 here anymore, you understand me? You can put that

17 on record. I'm not coming down here anymore. You

18 will not see my black bald head face anymore in this

19 courtroom --

20 MR. GOLDSTEIN: I'd ask that --

21 MR. SMITH: -- because I'm not through. Because

22 like I say, I got too much tension already. I'm 58

1 year old. I ain't got time to be playing with
2 y'all.

3 MR. GOLDSTEIN: I'd ask that the record be
4 marked --

5 MR. SMITH: I have children -- I don't have time
6 to be playing with you all. I do not own the
7 property. I'm not going to pay you, you understand
8 me? So you go write all the things you want to.

9 JUDGE RILEY: I have the motion to dismiss from
10 Mr. Goldstein. Mr. Smith has stated he is not going
11 to file --

12 MR. SMITH: I'm not going to pay.

13 JUDGE RILEY: -- is not going to file a
14 response. This matter is marked heard and taken.

15 Thank you.

16 MR. GOLDSTEIN: Thank you.

17 HEARD AND TAKEN

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